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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,512	12/01/2004	Carol Hobon	262017US6PCT	6972
22850 7590 02/01/2010 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER SIMONE, CATHERINE A				
ART UNIT 1794		PAPER NUMBER		
NOTIFICATION DATE 02/01/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/516,512

Applicant(s)

HOBON ET AL.

Examiner

CATHERINE SIMONE

Art Unit

1794

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-20 and 22-42 is/are pending in the application.
- 4a) Of the above claim(s) 24-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-20, 22, 23 and 30-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 33, 40 and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 33 recites the limitation “the at least one bevel” in lines 12-13. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is requested.
4. Claim 40 recites the new limitation “the first surface below the at least one raised portion” in line 7. This limitation is deemed vague and indefinite because it is unclear if the first surface is the upper surface or the lower surface of the plate. The claim also recites “at least one raised portion formed above the first surface”, which implies that the first surface is the upper surface of the plate. However, the new limitation “the first surface below the at least one raised portion” implies the first surface is the lower surface of the plate. The Examiner believes the first surface is the upper surface based on reading all the other claims. Thus, for purposes of examination, the Examiner will imply the first surface as the upper surface. Appropriate correction is requested.
5. Claim 42 recites the limitations “the upper surface” and “the at least one bevel” in lines 11-12. There is insufficient antecedent basis for these limitations in the claim. Appropriate correction is requested.

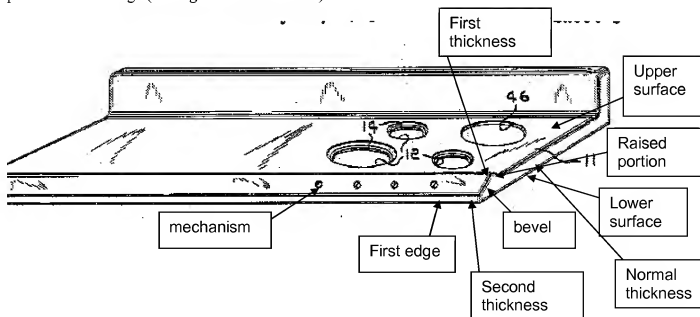
Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 16-20, 22, 23 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morton (US 2,414,162) in view of Hurko et al. (US 3,674,983).

Regarding independent claims 16 and 30, Morton discloses a cooking and/or temperature-maintaining device, comprising one or more heating elements (*col. 4, lines 37-41*), and a top plate (*Fig. 1, top plate 11*) configured to cover the one or more heating elements, the plate including an upper surface and a lower surface, at least one bevel formed at a first edge of the upper surface, the at least one bevel having thickness in a direction perpendicular to the lower surface of the plate decreasing along the bevel in a direction from an interior portion of the plate to the first edge (*see Figure 1 shown below*).



Morton fails to disclose the top plate being made of glass-ceramic.

Hurko et al. teach a smooth surface electric cooktop being made of glass-ceramic in order to provide a smooth cooktop surface that is readily cleanable and that presents a pleasing appearance and does not permit the drainage of spillovers therebeneath (*col. 1, lines 15-26*).

Morton and Hurko et al. are analogous arts, since both teach top plates for cooking devices.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the top plate in Morton to consist of glass-ceramic as suggested by Hurko et al. in order to provide a top plate having a smooth surface that is readily cleanable, that presents a pleasing appearance and that does not permit the drainage of spillovers therebeneath.

Morton also fails to disclose the at least one bevel being 35 mm or more wide, and a ratio of width of the at least one bevel to a height of the at least one bevel being less than 23.3.

It would have been an obvious matter of design choice to modify the bevel in Morton to have a width of 35 mm or more, and a ratio of width of the at least one bevel to a height of the at least one bevel being less than 23.3, since such a modification would have involved a mere change in the size of the component. A change in size is generally recognized as being within the level of ordinary skill in the art. MPEP 2144.04.

Regarding claim 17, Morton discloses the at least one bevel receiving one or more mechanisms configured to control the heating elements (*see Figure 1 shown above and col. 2, lines 44-46*).

Regarding claim 18, Morton discloses the at least one bevel following a raised portion (*see Figure 1 shown above*). However, Morton fails to disclose the thickness of the plate at a top of the raised portion being less than or equal to twice a standard thickness of the plate. It would have been an obvious matter of design choice to modify the top plate in Morton to have the thickness of the plate at a top of the raised portion being less than or equal to twice a standard thickness of the plate, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. MPEP 2144.04.

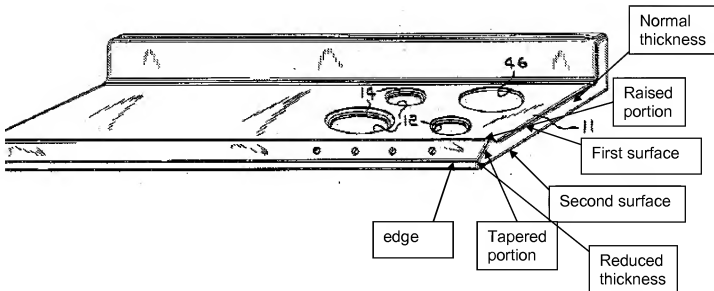
Regarding claim 19, Morton fails to disclose a thickness of at least 2 mm being left in the plate at a thinnest point of the at least one bevel. It would have been an obvious matter of design choice to modify the top plate in Morton to have a thickness of at least 2 mm being left in the plate at a thinnest point of the at least one bevel, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. MPEP 2144.04.

Regarding claim 20, Morton discloses the upper surface bearing the at least one bevel and the lower surface remaining approximately flat where facing the at least one bevel (*see Figure 1 shown above*).

Regarding claim 22, Morton discloses the at least one bevel following a raised portion, the at least one bevel extending over at least one part of a width of the raised portion and a part of a width of the plate outside the raised portion (*see Fig. 1 shown above*).

Regarding claim 31, Morton discloses the thickness of the plate along the at least one bevel tapering from a first thickness to a second thickness, the second thickness being less than a normal thickness of the plate outside the at least one bevel (*see Fig. 1 shown above*).

Regarding independent claims 23 and 33, Morton discloses a cooking and/or temperature-maintaining device, comprising one or more heating elements (*col. 4, lines 37-41*), and a top plate (*Fig. 1, top plate 11*) configured to cover the one or more heating elements, the plate including a first surface and a second surface substantially parallel to the first surface, at least one raised portion formed above the first surface with a first thickness of the raised portion greater than a thickness of the plate outside the raised portion, and at least one tapered portion following the at least one raised portion tapering from the first thickness of the at least one raised portion to a reduced thickness toward an edge of the plate. (*see Figure 1 shown below*).



Morton fails to disclose the top plate being made of glass-ceramic.

Hurko et al. teach a smooth surface electric cooktop being made of glass-ceramic in order to provide a smooth cooktop surface that is readily cleanable and that presents a pleasing appearance and does not permit the drainage of spillovers therebeneath (*col. 1, lines 15-26*).

Morton and Hurko et al. are analogous arts, since both teach top plates for cooking devices.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the top plate in Morton to consist of glass-ceramic as suggested by Hurko et al. in order to provide a top plate having a smooth surface that is readily cleanable, that presents a pleasing appearance and that does not permit the drainage of spillovers therebeneath.

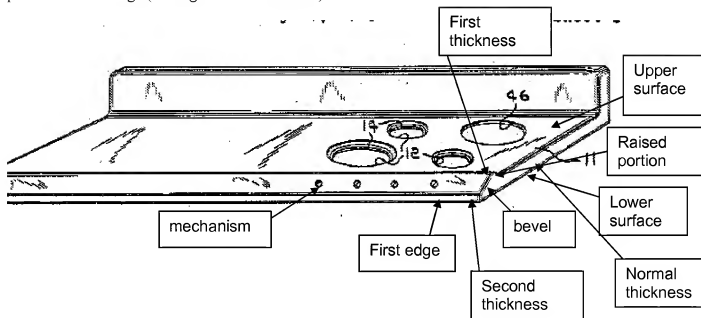
Morton also fails to disclose a ratio of width of the raised portion to a height of the raised portion being less than 23.3.

It would have been an obvious matter of design choice to modify the raised portion in Morton to have a ratio of width of the raised portion to a height of the raised portion being less than 23.3, since such a modification would have involved a mere change in the size of the raised portion. A change in size is generally recognized as being within the level of ordinary skill in the art. MPEP 2144.04.

Regarding claim 32, Morton discloses the reduced thickness being smaller than a normal thickness of the plate outside of the at least one tapered portion and the at least one raised portion (*see Figure 1 shown above*).

8. Claims 34-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morton (US 2,414,162) in view of Hurko et al. (US 3,674,983) and further in view of Gressenich et al. (DE 19633706).

Regarding independent claims 34 and 41, Morton discloses a cooking and/or temperature-maintaining device, comprising one or more heating elements (*col. 4, lines 37-41*), and a top plate (*Fig. 1, top plate 11*) configured to cover the one or more heating elements, the plate including an upper surface and a lower surface, at least one bevel formed at a first edge of the upper surface, the at least one bevel having thickness in a direction perpendicular to the lower surface of the plate decreasing along the bevel in a direction from an interior portion of the plate to the first edge (*see Figure 1 shown below*).



Morton fails to disclose the top plate being made of glass-ceramic.

Hurko et al. teach a smooth surface electric cooktop being made of glass-ceramic in order to provide a smooth cooktop surface that is readily cleanable and that presents a pleasing appearance and does not permit the drainage of spillovers therebeneath (*col. 1, lines 15-26*).

Morton and Hurko et al. are analogous arts, since both teach top plates for cooking devices.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the top plate in Morton to consist of glass-ceramic as suggested by Hurko et al. in order to provide a top plate having a smooth surface that is readily cleanable, that presents a pleasing appearance and that does not permit the drainage of spillovers therebeneath.

Morton also fails to disclose the at least one bevel being 35 mm or more wide.

It would have been an obvious matter of design choice to modify the bevel in Morton to have a width of 35 mm or more, since such a modification would have involved a mere change in the size of the component. A change in size is generally recognized as being within the level of ordinary skill in the art. MPEP 2144.04.

Morton further fails to disclose the lower surface of the plate including pegs where facing the at least one bevel.

Gressenich et al. disclose a cooking plate having knobs (pegs) on the lower surface for the purpose of providing increased impact resistance (see abstract and Figs. 3b and 4b).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the plate in Morton to have the lower surface including pegs where the pegs face the at least one bevel as suggested by Gressenich et al. in order to provide the plate with increased impact resistance.

Regarding claim 35, Morton discloses the at least one bevel receiving one or more mechanisms configured to control the heating elements (*see Figure 1 shown above and col. 2, lines 44-46*).

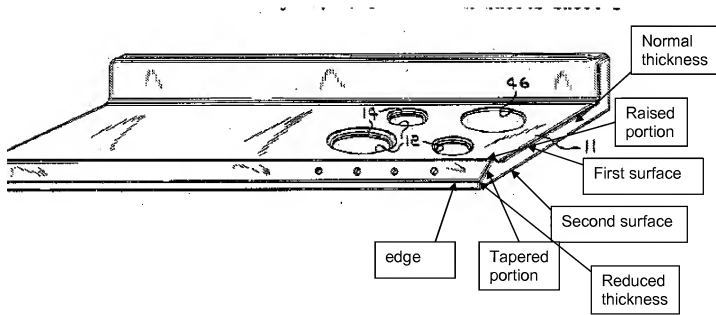
Regarding claim 36, Morton discloses the at least one bevel following a raised portion (see *Figure 1 shown above*). However, Morton fails to disclose the thickness of the plate at a top of the raised portion being less than or equal to twice a standard thickness of the plate. It would have been an obvious matter of design choice to modify the top plate in Morton to have the thickness of the plate at a top of the raised portion being less than or equal to twice a standard thickness of the plate, since such a modification would have involved a mere change in the size of the component. A change in size is generally recognized as being within the level of ordinary skill in the art. MPEP 2144.04.

Regarding claim 37, Morton fails to disclose a thickness of at least 2 mm being left in the plate at a thinnest point of the at least one bevel. It would have been an obvious matter of design choice to modify the top plate in Morton to have a thickness of at least 2 mm being left in the plate at a thinnest point of the at least one bevel, since such a modification would have involved a mere change in the size of the component. A change in size is generally recognized as being within the level of ordinary skill in the art. MPEP 2144.04.

Regarding claim 38, Morton fails to disclose a ratio of width of the at least one bevel to a height of the at least one bevel being less than 23.3. It would have been an obvious matter of design choice to modify the top plate in Morton to have a ratio of width of the at least one bevel to a height of the at least one bevel being less than 23.3, since such a modification would have involved a mere change in the size of the component. A change in size is generally recognized as being within the level of ordinary skill in the art. MPEP 2144.04.

Regarding claim 39, Morton discloses the at least one bevel following a raised portion, the at least one bevel extending over at least one part of a width of the raised portion and a part of a width of the plate outside the raised portion (*see Fig. 1 shown above*).

Regarding independent claims 40 and 42, Morton discloses a cooking and/or temperature-maintaining device, comprising one or more heating elements (*col. 4, lines 37-41*), and a top plate (*Fig. 1, top plate 11*) configured to cover the one or more heating elements, the plate including a first surface and a second surface substantially parallel to the first surface, at least one raised portion formed above the first surface with a first thickness of the raised portion greater than a thickness of the plate outside the raised portion, and at least one tapered portion following the at least one raised portion tapering from the first thickness of the at least one raised portion to a reduced thickness toward an edge of the plate. (*see Figure 1 shown below*).



Morton fails to disclose the top plate being made of glass-ceramic.

Hurko et al. teach a smooth surface electric cooktop being made of glass-ceramic in order to provide a smooth cooktop surface that is readily cleanable and that presents a pleasing appearance and does not permit the drainage of spillovers therebeneath (*col. 1, lines 15-26*).

Morton and Hurko et al. are analogous arts, since both teach top plates for cooking devices.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the top plate in Morton to consist of glass-ceramic as suggested by Hurko et al. in order to provide a top plate having a smooth surface that is readily cleanable, that presents a pleasing appearance and that does not permit the drainage of spillovers therebeneath.

Morton further fails to disclose the second surface of the plate including pegs where facing the at least one raised portion.

Gressenich et al. disclose a cooking plate having knobs (pegs) on the lower surface for the purpose of providing increased impact resistance (see abstract and Figs. 3b and 4b).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the plate in Morton to have the second surface including pegs where the pegs face the at least one raised portion as suggested by Gressenich et al. in order to provide the plate with increased impact resistance.

Response to Arguments

9. Applicant's arguments filed 11/10/2009 have been fully considered but they are not persuasive.

Applicants argue that “neither Morton nor Hurko identify that a ratio of width of a bevel to a height of a bevel is a result effective variable. In fact, neither describes measuring such a ratio, much less that such a ratio achieves a recognized result. Accordingly, the subject matter of amended claims 16, 30 and 33 cannot be considered obvious in view of Morton and Hurko”.

This argument is not deemed persuasive. As pointed out in the 103 rejections above, it would have been an obvious matter of design choice to modify the bevel in Morton to have a ratio of width of the at least one bevel to a height of the at least one bevel being less than 23.3, since such a modification would have involved a mere change in the size of the component (bevel). A change in size is generally recognized as being within the level of ordinary skill in the art. See MPEP 2144.04 (IV). In *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. Unless Applicants present evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art, amended claims 16, 30 and 33 are unpatentable over Morton in view of Hurko.

Applicants further argue “Morton and Hurko do not identify a ratio of width of a raised portion to a height of a raised portion as a result effective variable. Accordingly, the subject matter of amended claim 23 also cannot be considered obvious in view of Morton and Hurko”.

This argument is not deemed persuasive. As pointed out in the 103 rejections above, it would have been an obvious matter of design choice to modify the bevel in Morton to have a

ratio of width of the at least one raised portion to a height of the at least one raised portion being less than 23.3, since such a modification would have involved a mere change in the size of the component (raised portion). A change in size is generally recognized as being within the level of ordinary skill in the art. See MPEP 2144.04 (IV), *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. Unless Applicants present evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art, amended claim 23 is unpatentable over Morton in view of Hurko.

Furthermore, Applicants argue that neither Morton nor Hurko teach or suggest the feature of pegs beneath a bevel or raised portion, as recited in new claims 34 and 40-42.

However, as presented above, Gressenich et al. is cited to teach a cooking plate having pegs on its lower surface for increased impact resistance. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the plate in Morton to have the lower surface including pegs where the pegs face the at least one raised portion or bevel as suggested by Gressenich et al. in order to provide a plate with increased impact resistance. Thus, new claims 34-42 are unpatentable over Morton in view of Hurko and in view of Gressenich et al.

Conclusion

10. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERINE SIMONE whose telephone number is (571)272-1501. The examiner can normally be reached on Monday-Friday 9:30-6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David R. Sample/
Supervisory Patent Examiner, Art Unit 1794

/CAS/
Catherine A. Simone
Examiner, Art Unit 1794

January 21, 2010